

**MINUTES OF THE COMMON COUNCIL  
WORK SESSION  
June 29, 2010  
City Council Chambers – Rouss City Hall**

**PRESENT:** President Jeff Buettner; Vice-Mayor Michael Butler; Councilor Evan Clark, John Hill, Milt McInturff, Les Veach and John Willingham; Vice-President Art Major; Mayor Elizabeth Minor (9)

**ABSENT:** None (0)

President Buettner called the meeting to order at 5:30 p.m.

**Presentation:** Bluemont Concert Series – Dr. Schiavone

Dr. Schiavone presented a summary of his involvement with the Bluemont Concert Series and the importance of keeping the concert series in Winchester. The concerts in Winchester have already been scheduled and will not need to be cut this year. However, the programs in 16 other locations were cut by 30%. Bluemont has received good support and has raised \$12,000 of the \$20,000 deficit. Dr. Schiavone asked Council to reconsider appropriating more money to the series this year.

President Buettner asked City Manager Jim O'Connor to discuss the possibility of funding with the Old Town Development Board and to report back.

President Buettner asked that the Discovery Museum resolution be moved to the top of the agenda. He informed the citizens present at the meeting that this is not a public hearing. It is a chance for Council to discuss the resolution, not a lease.

**R-2010-36:** Resolution – Authorize franchise process for land previously under lease for Discovery Museum at Jim Barnett Park

Vice-Mayor Butler stated he has no affiliation with the Discovery Museum. He does not hold a position, board member, etc. He has taken his children there in the past but has no affiliation. His comments tonight are for the children of our community and of other communities who would come and benefit. This is a very multi-faceted subject as the over 200 bits of correspondence he has received will prove. In his decision making process, he must think globally about this issue. This is not an issue where he speaks from one little spot. He has to look at the global perspective of this decision. He has looked at all the factors and all of the issues that affect this community. With that in mind, he thanked the Parks Advisory Board for their due diligence on this issue. This has been a politically charged subject and a great pressure has been put on them. He thanked the board for their insightful thoughts presented last evening. It is his hope that we

incorporate some of these proposals into an MOU/lease should this pass. Like the board, he does not want the current MOU/lease to move forward. It needs to be modified. He appreciates the effort of the petition signed by those opposed but his ten years on Council have taught him that petitions are at best lukewarm in his opinion. People do not always know what they are signing. People sign them to be friendly. He appreciates the efforts but petitions are not strong in his opinion. This is an opportunity for Winchester in this region. It is an opportunity because of location. This building is designed to take advantage of this site and what the site has to offer. This site will allow people who visit the Discovery Museum to take advantage of Jim Barnett Park. Why else for this location? Shenandoah University is right there and could be a great partner for a scientific adventure. The Green Circle comes right through there. The Visitor's Center which draws people into the community is right there. Shawnee Springs is about half a mile as the crow flies from there. A great hidden treasure in this community and what it means to the community. The exercise trail, Family Land is right down the hill – a handicapped accessible play ground, Wilkins Lake, Abram's Delight, Daniel Morgan Middle School, and the amphitheater. It also has direct access to natural space for outside science labs. It is also a very compatible site for families, groups and schools to visit. It has excellent access to a national, regional, and local transportation network. In his opinion, it will enhance that area of the park. He doesn't know how many people have actually walked through every bit of that area and not just the green space. The lower portion of that quadrant has had some unsavory activity in its past and there is evidence of that. Increasing the activity and visibility in that area will improve the safety and will enhance the aesthetics in the area. \$1.5 million has been spent on the engineering on this area and for this building on that site. He knows other locations have been bantered about but he has seen no evidence of it. No one has come forward. The whole site is 3.5 acres. A half acre is the building itself. 0.75 acres would be the hardscape including the parking area which will be environmentally sensitive. That leaves 2.5 acres of green space which will be enhanced with the planting of 3 trees for every one that is taken down. The lawn will be leveled and more usable. The surrounding area will be cleaned up including the overgrowth in the thicket and forest. More activity in the area will allow people to use that area more freely. More people in the area will hopefully discourage some of the unsavory activity which has been noted in the past. He does not think the park system will be diminished. There are 14 wonderful parks in the community totaling 248 acres taken care of by the dedicated staff and overseen by the Park Advisory Board. Most are underutilized and people don't realize they are parks. Not all of it is green space you can run in but it is green space. There is also the 15 acres of lawn in front of Handley High School which is utilized as a city park all of the time. There is also the Museum of the Shenandoah Valley and the Frederick County park system of 397 acres. Other localities have museums in their parks. He is from one of the cities that does. He was born and raised in Newport News. He was very lucky to live right next to the Mariners Museum. The Mariners Museum has 3 museums in the park – the Mariners Museum, the Center for Fine Arts, and the Living Museum. Hagerstown, Maryland has the Museum of Fine Arts and the Amphitheater right

next door located in City Park. The building and land for the Children's Museum in Frederick, Maryland was donated by the city and is located in Rose Hill Manor Park. Maymont Park in Richmond was owned by the city and turned over to a non-profit entity. In 1975, the Maymont Foundation was established and assumed the role of manager, promoter, and developer under the terms of an agreement with the City of Richmond. The Mill Mountain Zoo in Mill Mountain Park in Roanoke, Virginia, is a non-profit group that bought the land and facility for \$1 from the city. Although it is not in a park, a building in Lynchburg, Virginia, was sold by the city for \$1 to a museum causing the city to give up tax revenue from the building. Fredericksburg has Hurkamp Park in which it donated land to a non-profit for a farmer's market and cooperative. They also have Motts Run Park which is owned by the city but run by an outside agency in the Motts Run Recreational Area. Some of these are larger parks than Jim Barnett Park but they are examples. Other examples can be found where localities have leased or sold property or buildings for an inexpensive rate not necessarily in parks in Charlottesville, Norfolk, and Portsmouth. The traffic will increase but most traffic will be confined to that area. Bus traffic will help to keep daily trips down. There will probably be one bus every couple of hours since most schools bring 2-3 buses. Based on Mr. Veach's calculations, he determined an hourly rate for cars would be 40 cars extra per day in the park. That is 6.2 cars an hour or one every 10 minutes. Better traffic management systems are in place today than there were 6 years ago when we talked about this initially. The use of the building will tend to be at non-peak hours for park activities. There is now a light at Hollingsworth and Pleasant Valley that was not there before. University and Lowry are viable outlets and inlets. Potential traffic flow changes in that area in the future may enhance traffic flow further. A proposed traffic circle at the intersection of Maple and Oak which is in the park may improve traffic flow in that area. We are going to gain 67 parking spaces. Currently along Maple, there is room for approximately 47 based on a rough calculation done by a citizen. The building design is world class. It will be a LEED Platinum building which stands for Leadership in Energy and Environmental Design. The building itself will be an exhibit which will draw academic and architectural visits and activities. The museum as a package will be a draw for economic redevelopment. It can be a jewel in our tourism crown. There are 6.4 million people living in a 75 mile radius of this community and 10.6 million in a 100 mile radius. It is true not all of those numbers will be a target to come to the museum but it shows we have the potential to draw people to this area for historical and cultural activities. There are a lot of other museums in that target area but if we have something unique to set us apart, people will come. People who live on the other side of the mountain come over here quite often to enjoy our restaurants, shops, and rural nature. This will give them another reason to come over the mountain. He does not agree that the museum will take business away from the park. He sees the park and museum partnering with each other and possibly other groups. The leadership for the museum has insured that they will partner with other community groups to insure the grounds and facilities will be used to promote community enterprise. He also wants this as part of the MOU and lease if there is one. The relationship with Parks and Rec can be synergistic. It can have a

positive affect on the programs and facilities of both the museum and the park. We have to look at it as this is one community and it can be synergistic between these two groups. The Discovery Museum needs to develop and focus on exceptional groups and to establish an inclusive nature to the Discovery Museum environment. Someone proposed needing an advisory board outside of the board of directors to help bring ideas and promote programs. Board of Directors tend to be there for leadership and business purposes. SU has a great environmental program. Dr. Woody Bousquet might be interested in partnering since it would possibly be right next door to him. Partnerships from groups outside of the area could be developed. The amphitheater is a lost gem that is not successful because of its isolation and remote location. To be successful, it needs some other entity to offer an anchor of visibility. The Hagerstown Fine Arts Museum and Band Shell are right next to each other and both thrive. It could be a real arts, cultural, and performance center for the community. If the Discovery Museum goes there, he will personally lead a fund raising effort to raise money and bring that back. The lease has lapsed but in the end it doesn't make any difference. If the Discovery Museum had come here last year, we would still be having this discussion today. He wants it to be a part of the MOU/lease if there is one that the Discovery Museum pays for grass cutting and snow removal. They need to be responsible for their maintenance, both hard and soft, of the property and building. In his opinion, the value of 1.2 million for the land is a paper title. The value of the land is put on there for accounting purposes. The city could never realize a 1.2 million windfall for that property. The Discovery Museum's fiscal plan needs to be monitored carefully so that both short and long term needs are taken care. A contingency plan needs to be put in place for fiscal issues and catastrophic situations. It is a concern but he believes it can be dealt with. A comment has been made that it is one of the last spots where you can view the three mountain ranges of the valley – the Massanutten, the Blue Ridge, and the Allegheny. It is true it is one of the last spots you can see from public land but you can't see it from there because it is overgrown. If the Discovery Museum was built, there would be an observation post where you could view those three ranges. You could sit on the same spot that George Washington sat and view those three ranges. Science and technology in today's world is incredibly important. The Washington Post reported two years ago that the scores from the 2006 Program of International Students Assessment show that 10<sup>th</sup> graders in the United States trailed their peers in many other industrialized countries. The Science scores lagged behind 16 of the 30 countries in the Organization for Economic Cooperation and Development. The U.S. students were further behind in Math trailing counterparts in 23 countries. We need to inspire our youth to become involved with science and technology. Not all learning is done in the formal classroom. A lot of learning is done outside of the classroom as we adults know. He believes this museum will be a net gain for the community and not a net loss. He voted for it because he truly thinks it will make a difference for the community.

Councilor Clark stated we have all spent a lot of time looking at this issue. He thanked the Parks Board for taking the time and energy to go through all of the

considerations. He thinks if this was a brand new idea for someone to use park land, council would dismiss it almost out of hand for preservation of green space. This was originally an agreement in 2004 with a previous Council. The lease and MOU were renewed on several occasions. It is his recollection and of some of the councilors that went before him that the last time the board members of the Discovery Museum came to this body and said we are here to pay are \$1 lease and renew the terms of the lease, they were essentially dismissed and were told we have already settled this issue and do not need your \$1 in cash and please come to us when you are ready to break ground for the building. He feels honored and duty bound to abide by the agreement of his predecessors. He thinks it is not a good business practice to allow leases to lapse. Shame on those from Council who sent the Discovery Museum away saying we do not need to renew this or maintain this agreement. It was unwise for Council and it was unwise for the Discovery Museum not to insist on taking the \$1 and renewing the lease. In good conscientious, he cannot scuttle the agreement with the Discovery Museum based on the fact they were told to go away and come back when you are ready to break ground and put in footers. He thinks they relied on that promise absolutely and with the full effect of a contractual agreement. He is losing sleep at night thinking they relied on that promise and we would now argue with them that the lease is now void because they did not hand over \$1 and have the agreement renewed. That guides his vote along with a lot of the other things that were discussed previously. He does believe that if and when this museum is built, it will absolutely be a magnet to the people of the valley and beyond. People will benefit from this museum being constructed in the Park and there are an awful lot of symbiotic benefits to the other properties in and around the park. For those reasons, he will support the resolution.

Councilor McInturff asked himself how he got here last night after the 3.5 hour Parks Board meeting. As liaison to the Parks Board, he has had the pleasure of dealing with Brad Veach, the Parks and Rec Board, and his good friend Phil Glaize with trying to gather as much information as he can about this situation. He has received so many emails, phone calls, and letters that he had gone from one side to the other in trying to be considerate of people's thoughts. He got here by running for City Council and wanting to do something to help and to contribute. In part of running for Council, he made an oath to himself to represent the people of his ward and in Winchester. It is clear to him that a majority of the citizens he has been in contact with are not comfortable with this situation. He wishes a win-win situation could be done because everyone he has spoken with or received emails from support the Discovery Museum. They are just not comfortable with it being on top of the hill in the park. The decision he has to make does not directly involve the Discovery Museum. The decision he has to make is whether he wants to represent the feelings of the citizens of Winchester to set aside park property for private entity and he can't in good conscientious do that so he will not be supporting it.

Mayor Minor stated she feels the bottom line is if the Discovery Museum beneficial to the City. She thinks all would agree it is even those who are opposed

to having it in the park. It is an asset to the city and after the new one is built it will be even more of an asset. She stated other options have been made and have been made in the park. She hopes all of the alternative sites will be explored. She also hopes there will be a lot of flexibility and negotiations to have a win-win museum for everyone concerned.

Councilor Veach stated he started on Council in January of last year and has done tremendous research on this because it is a very difficult situation. He believes commitments should be adhered to so the lease was one of the issues he really wanted to get into. He knows it started in 2003 and 2004 and the entity came before Council twice to get an extension in writing. It bothered him why it was not renewed. It came out on Saturday that in June of 2009, Council was informed that they had yet to raise the funds sufficient to start construction and Council told the museum go raise the money and don't worry about the lease. He looked back over the minutes and it was not in the minutes at all. He also did not remember it. If that is true, he does not believe it and he did not see it in the minutes. As a result, the lease was expired. It was a bilateral contract so there are no promises left unkept on either side. With that being said, he loves the Discovery Museum. As an engineer, he loves the building and the plans. Depending on the site, he thinks to relocate could be nominal or it could be some more money. He does not feel that open public park land should be used to bail out private entities. He thinks the building will be a great draw to the area and to the city but he does not believe it has to be in the park to do that. Just like the Mayor said, he thinks there are solutions that need to be considered so we can have the open park land and this magnificent building.

Councilor Hill stated he too has been really agonizing over this issue and has received lots of emails and has talked to numerous people. He does believe the Discovery Museum will be an asset to the city and he likes the concept they are proposing. What troubles him is the fact that people talk about education and community effort and being part of this community. However, he serves a ward that does not feel they are a part of this community or a part of the city at times and that disturbs him quite a bit. He looks for something in the plans and has heard people say they want to reach out to everybody. He wants to know how they will reach out especially to the people in his ward. He thinks offering children an opportunity to come to see a museum via a free ticket is wonderful. He is concerned whether that child will come back later on with his parents and will the parents want to use the museum more than one time. He does not hear that from the citizens in his ward. What he has heard is you are going to do what you want to do and it doesn't pertain to us. He would like to think that is not true. He does not see the people of ward 2 using the Discovery Museum a lot. He also does not see them really being invited there. He is not saying people don't try but he just doesn't see it where they are. It does concern him that it is not being used by the citizens of his ward. How he can get them to really use it is something he thinks about. Something he puts to his fellow councilors and those sitting in this room is how do we get them there and get them interested. How do we say to them it is your museum as well? He also thinks about the contract.

Why it was allowed to lapse? Why was this gentleman's agreement allowed? It bothers him because when he instructs the students he works with, he tells them to make sure you are following the rules of having things written down. No contract means absolutely nothing since someone could come back and say I didn't say that. It is meaningless. He thought good intentions were there with the lease but there was no contract. He is not sure he wants to lease or sale the land to private enterprise. Vice-Mayor Butler brought out a lot of good points. He does try to do his best to serve the citizens of this city but he is thinking about the people of his ward. They are citizens and because he is not seeing their inclusion he does not know if he can support this.

Councilor Willingham thanked the Parks Board, Brad Veach and his staff for their work and time. He also thanked the citizens for participating. There are a number of issues he thinks are important that nobody emails or calls him about. It is very refreshing to see people participating in government. It is something that does not occur on a regular basis and he appreciates it. A lot of good points have been made tonight and he agrees with a lot of what was said. His preference is that the Discovery Museum be downtown. He thinks it could energize the downtown community but unfortunately that is not his decision to make necessarily. He is not a member of the Discovery Museum Board or has an opportunity to impress that. He had to boil down the facts and data that were presented to him. This previous council made a commitment to this museum to be in the park. He thinks it is imperative when government makes a commitment, it can be relied on. It reaffirms points for him that whenever Council votes on an issue, they need to carefully consider commitments we are making on future councils. He will vote to support it in the park but only because of the prior decisions made by our councils. He would like to see and it may come up later that we explore ways to preserve green space within our communities whether it be through pocket parks or better utilities in the neighborhoods. The park in his neighborhood is used as a soccer field and gets a lot of use. He thinks those are really important points. Other people have brought up excellent points that need to be considered if this does pass for the MOU and the lease. There is a lot to discuss and to be debated if this goes forward that in his perspective need to be changed from the original. At the end of the day, his decision is to reaffirm the decision made by the previous council.

Vice-President Major stated he appreciates everyone's input on this issue. A lot of points have been made that he never thought of and there were some that didn't matter at all to him. It doesn't matter to him that the lease was not renewed because we are where we are. He did the same process as Councilor Willingham but came to a different conclusion. When we look at the resolution before us now, the issue is whether we think the right place for the Discovery Museum to be is in the park and he does not think it is. He feels Council is given the opportunity right now to vote on that which we weren't in the past. He is going to take that opportunity to give his opinion and he doesn't think it belongs in the park for a lot of the reasons Councilor Willingham said. He does not like the idea of giving public land to a private entity. He thinks the location does not

allow the Discovery Museum to maximize their potential as an economic engine for our city. He thinks the Discovery Museum will be great for the city no matter where it is but he thinks it will be even better if it was downtown or somewhere else. And finally, the loss of green space. He has an idea of how this is going to happen from the count tonight. We are all behind the Discovery Museum but you might be careful what you wish for when you find out who your new landlord is if that happens. There is a lot more work to be done but he thinks we will all be better for it in the end. He thinks there will be a better plan for the Discovery Museum and for the Park. He is looking forward to working with everyone to make sure we have the best potential use of all of our property.

President Buettner stated the City, Parks Board and Parks staff are looking at the current stock of pocket parks to figure out how to better utilize them and will be coming to Council with recommendations on where additional green space is needed. He would like to make a commitment that Council as a body gets behind the increase of green space in the city specifically with pocket parks in areas that they don't currently exist. Our community needs neighborhood parks. If you look at Timbrook Park, he has never driven by it when it is not being utilized since it was built. He thinks we need neighborhood parks. Regardless of how this vote goes, he would like Council to get behind putting more green space into our park system. In 2004, he voted to support the Discovery Museum. He has looked at a lot of the reasons why he did that and he looked at that vote. Now that we are talking about it again, he has had a great opportunity to talk to the Park Board members, staff, proponents and opponents of the museum. There are a myriad of reasons on both sides as to why it should or should not be built. Initially, he thought he made a commitment in 2004 and he needs to honor that. When he was first elected, he made a commitment to himself that he would look at issues and how they would affect the city of Winchester 10 -15 years down the road and vote for those things that he thought would move Winchester forward. The other promise he made to himself was that he wasn't necessarily going to be concerned with himself in an election process because that is the determination on whether or not he made good or bad decisions. He looked at the reasons why he voted for it in 2004 and a lot of those have been talked about tonight. He still thinks those reasons hold true today. If this museum is built as proposed, it will be an asset to the parks system, to the city, and to the region. He does not think we can let that opportunity pass. If we don't do it, we will never know what could have been. If we do this, 5-10 years from now, we will be glad we did so he will support it.

Councilor McInturff asked if the resolution was site specific. City Attorney Anthony Williams stated it is only specific to the amount of property. Mr. Williams presented a slight text amendment to remove "the foregoing" in the last paragraph of the resolution.

After further discussion, Vice-President Major moved to amend the 7<sup>th</sup> paragraph to strike the wording 'to locate upon the property at Jim Barnett Park' and to



strike the wording “the foregoing” in the last paragraph. *The motion was seconded by Councilor Clark then unanimously approved by voice-vote.*

Councilor Evan Clark moved to forward the amended resolution to Council. The motion was seconded by Mayor Minor.

City Manager Jim O'Connor stated that for clarification the message that will be going out to the Parks Board will be that we are starting at ground zero for negotiating the lease and how that is to be configured to the operation and maintenance. All of those items will be subject to renew and discussion.

President Buettner stated he is correct but he would hope that the spirit of the initial lease be kept. It will ultimately come back to Council.

*The motion passed 5/4 with Vice-President Major and Councilors Hill, McInturff and Veach voting in the negative.*

### **Old Business:**

**R-2010-30:** Resolution - Approval for Packer Street Connection to W. Cedarmeade Avenue Affirmative Finding

Planning Director Tim Youmans stated the resolution was tabled at the previous work session. Based on correspondence from David Worthington, he and his neighbors have hired a consultant to look at the traffic impacts plus the impacts on his wetlands. Mr. Youmans stated the results from the consultant are not expected back until September/October and the residents have requested action not be taken until then.

Vice-Mayor Butler moved to table the resolution until the study is complete. *The motion was seconded by Councilor Willingham then unanimously approved by voice-vote.*

**R-2010-41:** Resolution – Adoption of Substantial Amendment to the 2009 CDBG Annual Action Plan

Social Services Director Carla Taylor stated this resolution will advance to Council the amendments made at the previous meeting. This will also end the Public Comment Period.

Vice-President Major moved to forward the resolution to Council. *The motion was seconded by Mayor Minor then unanimously approved by voice-vote.*

### **New Business:**

**O-2010-25: Ordinance – AN ORDINANCE TO GRANT FRANCHISE TO USE PUBLIC PROPERTY FOR THE PROVISION OF ELECTRIC SERVICE TO THE CITY OF WINCHESTER**

John Coffey, III, VP of Engineering and Operations for Shenandoah Valley Electric Cooperative, and John Sisler, Accounts Manager concerning undergrounding of electric utilities.

John Coffey, III, of Shenandoah Valley Electric Cooperative presented a summary of underground versus overhead service and offered to answer any questions Council may have.

City Attorney Anthony Williams stated there will be opportunities down the road where Utilities can work with SVEC to install underground service during road projects to save money for both parties. Perry Eisenach, Utilities Director, has been charged with determining areas where this can be done.

City Manager Jim O'Connor stated that going to underground service in some of the older buildings could be an expense on the property owners.

Councilor Clark moved to forward the ordinance to Council. The motion was seconded by Councilor Willingham then unanimously approved by voice-vote.

**R-2010-32: Resolution – Acceptance of CLG Grant Funding for Historic District Survey**

Zoning Administrator Vince Diem stated the resolution authorized the acceptance of grant funding in the amount of \$25,000 and the publication of the RFP for the survey. The survey will complete the National Historic District in the City that began in 2008. Additional funds could be accessed to survey the City's historic district and possibly more properties in the city.

Councilor Willingham moved to forward the resolution to Council. *The motion was seconded by Councilor McInturff then unanimously approved by voice-vote.*

**O-2010-23: Ordinance – AN ORDINANCE TO APPROVE AND ADOPT A SPOT BLIGHT ABATEMENT PLAN PURSUANT TO SECTION 6-133 OF THE WINCHESTER CITY CODE, FOR THE STRUCTURE(S) AND PROPERTY LOCATED AT 414 SOUTH BRADDOCK STREET**

Mr. Diem stated he recently received information from Mr. Gavis regarding an abatement plan. Staff recommended tabling the ordinance.

Vice-President Major moved to table O-2010-23. *The motion was seconded by Vice-Mayor Butler then unanimously approved by voice-vote.*

**O-2010-24:** Ordinance – AN ORDINANCE TO APPROVE AND ADOPT A SPOT BLIGHT ABATEMENT PLAN PURSUANT TO SECTION 6-133 OF THE WINCHESTER CITY CODE, FOR THE STRUCTURE(S) AND PROPERTY LOCATED AT 630 NORTH LOUDOUN STREET

Mr. Diem presented Council with additional information from the purchaser of the property signed by himself and the attorney of the owner of the property. The contract was signed yesterday and an acceptable abatement plan has been submitted. Staff recommended tabling the ordinance.

Councilor Willingham moved to table the ordinance. *The motion was seconded by Councilor Clark then unanimously approved by voice-vote.*

**R-2010-34:** Resolution – Accept BJA funding for Bullet Resistance Vests

Major David White stated the grand funding would be to purchase \$30,000.00 in bullet resistance vests for the department.

Vice-Mayor Butler moved to forward the resolution to Council. *The motion was seconded by Vice-President Major then unanimously approved by voice-vote.*

**R-2010-35:** Resolution – Modification to CU-09-267 for Night Club Use

Mr. Diem stated the applicant originally proposed no live bands but is now requesting live bands which are in the definition of the ordinance. Staff recommends approval.

Vice-President Major moved to forward the resolution to Council. *The motion was seconded by Councilor Willingham then unanimously approved by voice-vote.*

**O-2010-26:** Ordinance – AN ORDINANCE TO AMEND AND RE-ADOPT SECTION 27-130 AND DELETE SECTION 27-131 OF THE WINCHESTER CITY CODE PERTAINING TO PROBATE TAX AND FEE FOR LIST OF HEIRS (pages

City Attorney Anthony Williams stated the ordinance comes about due to changes to the State Code that take effect July 1, 2010.

Councilor Willingham moved to forward the ordinance to Council. *The motion was seconded by Mayor Minor then unanimously approved by voice-vote.*

**O-2010-27:** Ordinance – AN ORDINANCE TO AUTHORIZE THE ADDITIONAL APPROPRIATION OF FUNDS FOR NECESSARY EXPENDITURES OF THE CITY OF WINCHESTER, VIRGINIA FOR THE FISCAL YEAR ENDING JUNE 30, 2010

Finance Director Mary Blowe stated the appropriation was for the Schools to match the revenue expenditure in the fund raising accounts.

Councilor Willingham moved to forward the ordinance to Council. *The motion was seconded by Councilor Clark then unanimously approved by voice-vote.*

**R-2010-37:** Resolution – Adoption of Regular Meeting Schedule

Councilor Veach moved to forward the resolution to Council. *The motion was seconded by Mayor Minor then unanimously approved by voice-vote.*

**R-2010-38:** Resolution – Authorization to pick up the Employee's Contribution to VRS for Plan 2 Employees.

Interim Administration Director Josh Didawick stated the General Assembly has authorized the choice of paying the employee contribution to VRS for plan 2 employees. The City can choose to pay all, some, or none of the 5% employee contribution to VRS. Whichever option is chosen would be in affect from July 1 2010, to June 30, 2011 and can be changed for the next fiscal year. The staff recommendation is for Council to pay for the whole 5% of the employee contribution for plan 2 employees. This benefit is included in the FY11 budget. It should also be noted that a vast majority of the localities around the state have voted to continue paying the 5% for plan 2 employees including city schools, Frederick County Schools and government, Clarke County, Shenandoah County, the Town of Leesburg, and the City of Staunton which has had some well publicized difficulties meeting the budget. The ability to keep pace with the market on this issue will create a recruitment and retention issue in the long term especially in positions that involve a great deal of up front training and are easily transferrable to other VRS participating agencies. Two separate classifications of employees receiving different benefits will create morale issues.

Vice-President Major stated he is not going to support the City in doing this for many reasons but the main one is VRS is what is going to bankrupt the Commonwealth of Virginia and very possibly the City of Winchester some day. These kinds of plans are not in existence in the private sector that he is aware of and it is setting a bad precedent. Council has the option to allow employees to contribute their own money into their own retirement which is the way he thinks it should work. He believes it will cause more problems down the road if this is allowed to happen. Council can take action later on if recruitment or retention suffers but he is not going to support it.

Councilor Willingham stated he is in agreement with Vice-President Major. He is in support of some number but not 5%. He looks at the City's pension contributions, those of other municipalities and various articles and the number one issue of any fiscal constraint is pension loss. It is not that he does not believe the city should be rewarding their employees. It is that we are giving benefits that are unsustainable. Most of the private sector companies have done away

with pension plans and have moved to a 401k type plan with a match if there is a discretionary piece to do that. He has very large concerns when he looks at the VRS system. This year, the governor borrowed against VRS funds in the budget. He made the assumption that most pension actuaries don't believe are anywhere near attainable. If the city has an opportunity now to make a change that can benefit the City and everyone long term, he thinks Council has to take advantage of that. The City can come up with other ways of recruiting people. A lot of times, these pension plans or employee contributions are a hidden piece of their overall compensation. A majority of the people surveyed say they do not come to work completely for the money but for opportunities to grow and be promoted. These other areas can be focused on. He is concerned about the long term sustainability of this fund and that the State will double the City's obligations once the fund is thoroughly looked at. He does want to participate but not at the level of 5%.

Vice-Mayor Butler stated he disagrees with Mr. Willingham and Mr. Major. In the realm of local government, we would be at a disadvantage. He knows there are issues with VRS but this will send a not so good message to our employees. We have stressed them over the last few years. He knows this does not affect the current employees but it does send a message. Other localities are going to take advantage of this. We already have had a hard time keeping certain staff members that have gone to the private sector or other public sector agencies. He thinks we need to rise above that and hope that the legislature and VRS continue to work on these issues. He thinks it is imperative that we participate at the 5% level.

Councilor Veach stated he agrees with Mr. Willingham and Mr. Major. When an employee can contribute to a 401 k and realize an automatic match, they realize the benefit even more so and buy into it. He doesn't know what the fix is but thinks this is an opportunity to get ahead of the game and ahead of everyone else to come up with a solution to make the City of Winchester more attractive to work for than other sites.

Councilor Clark expressed his concern that if VRS is taken away, the city will continue to bleed out employees to other localities in driving distance. We are only going to accelerate that loss of quality employees. It has been his experience with personnel that it is much more cost effective to retain quality people rather than trying to rehire and run through a mill of turn over. He does not think he can support any less than 5% or not much less than that.

Councilor Willingham moved to contribute 3% as the employee contribution to VRS for Plan 2 employees. *The motion died without a second.*

Vice-Mayor Butler moved to contribute the full 5%. *The motion was seconded by Councilor Clark then defeated 4/5 with President Buettner, Vice-President Major, and Councilors Veach, Hill, and Willingham voting in the negative.*

Councilor Willingham moved to ask the City Manager to explore an employee matching program. The motion was seconded by Councilor Veach then unanimously approved by voice-vote.

**R-2010-39:** Resolution – Accept DOJ Byrne Grant in the amount of \$17,500 for equipment purchase.

Major David White stated the grant funds will purchase equipment for the SWAT Team and less lethal equipment.

Mayor Minor moved to send the resolution forward to Council. *The motion was seconded by Councilor Veach then unanimously approved by voice-vote.*

**O-2010-29:** Ordinance – AN ORDINANCE TO AMEND ARTICLE 6 OF THE WINCHESTER ZONING ORDINANCE TO ADD RESTAURANTS AS USES PERMITTED WITH A CONDITIONAL USE PERMIT WITHIN THE RESIDENTIAL OFFICE (RO-1) DISTRICT

Planning Director Tim Youmans stated this is a privately sponsored amendment that would allow for restaurants to be considered as conditional uses in the RO-1 district. Two draft versions of the amendment proposal were presented for consideration. Draft 1 is the proposal as originally submitted by the applicant. Draft 3 removes the additional requirements and would add restaurants excluding those with drive through facilities.

Vice-President Major moved to forward Draft 3 of the resolution to Council. *The motion was seconded by Councilor Willingham then unanimously approved by voice-vote.*

**CU-10-255:** Condition Use Permit – Request of Scott Rosenfeld for non-residential parking in a front yard at 825 Whittier Avenue and 812 Amherst Street

Mr. Youmans presented a proposal to permit off-street parking between a proposed office building and the Whittier Avenue frontage of the consolidated lot that will have frontages along both Whittier and Amherst Streets.

Vice-President Major moved to forward the proposal to Council. *The motion was seconded by Councilor Veach then unanimously approved by voice-vote.*

***Vice-Mayor Butler left the meeting at 8:02 p.m.***

**O-2010-28:** Ordinance – AN ORDINANCE TO AMEND AND RE-ADOPT ARTICLE X SECTIONS 2-219 AND 2-220 OF THE WINCHESTER CITY CODE REGARDING THE INDUSTRIAL DEVELOPMENT AUTHORITY

Economic Redevelopment Director Jim Deskins stated the ordinance will officially change the name of the Industrial Development Authority to the Economic Development Authority as requested by the authority through a resolution approved in May 2009.

Councilor Willingham moved to send the ordinance forward to Council. *The motion was seconded by Vice-President Major then unanimously approved by voice-vote.*

**O-2010-22:** Ordinance – AN ORDINANCE TO CONDITIONALLY REZONE AN APPROXIMATELY 0.068 ACRE PORTION OF LAND AT 414 NORTH LOUDOUN STREET (*Map Number 173-01-L-7*) FROM HIGH DENSITY RESIDENTIAL (HR) DISTRICT WITH HISTORIC WINCHESTER (HW) DISTRICT OVERLAY TO CENTRAL BUSINESS (B-1) DISTRICT WITH HW DISTRICT OVERLAY

Mr. Youmans stated the applicant made changes to the proffer statement regarding the hours of manufacturing based on Council's comments at the previous meeting.

Councilor Clark moved to forward O-2010-22 to Council. *The motion was seconded by Mayor Minor then unanimously approved by voice-vote.*

**R-2010-40:** Resolution – Approval of \$300,000 to be donated to the Industrial Development Authority to partially fund a Real Estate Revolving Loan Fund and a Business Growth Revolving Loan Fund

Economic Development Director Jim Deskins presented a proposal for the City to donate funds for two different types of loan programs with the purpose to provide gap financing to stimulate the development of the downtown area and to develop jobs and revenue in the city. He offered to provide full procedural manuals for each program for review. The loans would required participation from the banks and would generally be for a 5 year term.

Vice-President Major moved to forward the resolution to Council. *The motion was seconded by Councilor Veatch then unanimously approved by voice-vote.*

**O-2010-30:** Ordinance – AN ORDINANCE TO APPROVE AND ADOPT A REVISED SPOT BLIGHT ABATEMENT PLAN PURSUANT TO SECTION 6-133 OF THE WINCHESTER CITY CODE, FOR THE STRUCTURE(S) AND PROPERTY LOCATED AT 119-129 NORTH LOUDOUN STREET SBA-09-01 (Taylor Hotel)

Zoning Administrator presented a proposal for the sale of the property to Taylor Plaza, LLC, who will renovate the property utilizing state and federal tax credits. Taylor Plaza, LLC has requested a 7 month due diligence period where monthly written reports will be submitted to the City regarding their progress with pre-

development activities. A notification of no purchase will also be given if Taylor Plaza, LLC, cannot proceed with the purchase. At that point, the City can re-instate the condemnation proceedings immediately. Staff recommends acceptance of the proposal only if the applicant agrees to resolve any outstanding public health, safety and welfare issues pertaining to the structural integrity as identified in the July 7<sup>th</sup> report by Structural Concepts Incorporated.

Vice-President Major moved to send the ordinance forward to Council. *The motion was seconded by Mayor Minor then unanimously approved by voice-vote.*

**O-2010-31:** Ordinance – AN ORDINANCE TO AMEND AND RE-ADOPT AN ORDINANCE FOR SPOT BLIGHT ABATEMENT AND TO DECLARE A PUBLIC NUISANCE AS CREATED BY A BLIGHTED PROPERTY KNOWN AS 119-129 NORTH LOUDOUN STREET IN FURTHERANCE OF IMPLEMENTING A SPOT BLIGHT ABATEMENT PLAN ADOPTED IN ACCORDANCE WITH SECTION 6-133 OF THE WINCHESTER CITY CODE AND §36-49.1:1 OF THE CODE OF VIRGINIA (1950), AS AMENDED SBA-09-01 (Taylor Hotel)

*O-2010-31 moved forward under the previous item.*

**O-2010-32:** Ordinance – AN ORDINANCE TO AMEND AND RE-ADOPT AN ORDINANCE FOR SPOT BLIGHT ABATEMENT AND TO DECLARE A PUBLIC NUISANCE AS CREATED BY A BLIGHTED PROPERTY KNOWN AS 501-519 WEST JUBAL EARLY DRIVE IN FURTHERANCE OF IMPLEMENTING A SPOT BLIGHT ABATEMENT PLAN ADOPTED IN ACCORDANCE WITH SECTION 6-133 OF THE WINCHESTER CITY CODE AND §36-49.1:1 OF THE CODE OF VIRGINIA (1950), AS AMENDED SBA-10-02

Mr. Diem stated staff has received an alternative abatement plan and recommended tabling the ordinance.

Vice-President Major moved to table O-2010-32. *The motion was seconded by Councilor Clark then unanimously approved by voice-vote.*

**O-2010-33:** Ordinance – AN ORDINANCE TO AMEND AND RE-ADOPT AN ORDINANCE FOR SPOT BLIGHT ABATEMENT AND TO DECLARE A PUBLIC NUISANCE AS CREATED BY A BLIGHTED PROPERTY KNOWN AS 146-148 NORTH LOUDOUN STREET IN FURTHERANCE OF IMPLEMENTING A SPOT BLIGHT ABATEMENT PLAN ADOPTED IN ACCORDANCE WITH SECTION 6-133 OF THE WINCHESTER CITY CODE AND §36-49.1:1 OF THE CODE OF VIRGINIA (1950), AS AMENDED SBA-10-01

Mr. Diem stated the property is under new ownership who realizes they have 30 days to submit an abatement plan. Staff is recommending the ordinance be tabled.



Vice-President Major moved to table O-2010-33. *The motion was seconded by Councilor Willingham then unanimously approved by voice-vote.*

**MOTION:** Approval of Agreement for Wastewater Discharge for Sunshine's Pride Dairy, Inc.

Utilities Director Perry Eisenach stated he received last minute comments from the attorney for Sunshine's Pride Dairy and distributed a revised agreement. The wastewater is higher than the typical business. The three part agreement between the dairy, the Service Authority and the City will allow the ability to purchase increased capacity if they chose to expand in the future at a price determined by the City.

Councilor Clark moved to forward the agreement to Council. *The motion was seconded by Vice-President Major then unanimously approved by voice-vote.*

**O-2010-34:** Ordinance – AN ORDINANCE TO ADD, AMEND, AND RE-ENACT SECTION 14-69 OF THE WINCHESTER CITY CODE PERTAINING TO THE DEPOSIT OF COIN REQUIRED; OVERTIME PARKING

Assistant City Attorney Anne Lewis stated State Code allows for individuals with a handicapped license plate or placard to park for free at meters and in parking garages unless the locality chooses not to. With the automation of the parking garages, the Winchester Parking Authority is requesting the city become exempt from the free handicapped parking.

Councilor Veach moved to forward the ordinance to Council. *The motion was seconded by Councilor McInturff the approved 5/3 with President Buettner, Vice-President Major and Councilor Willingham voting in the negative.*

**O-2010-35:** Ordinance – AN ORDINANCE TO AMEND AND RE-ENACT SECTION 14-64 OF THE WINCHESTER CITY CODE PERTAINING TO METER ZONES ESTABLISHED

Ms. Lewis stated the Winchester Parking Authority has reviewed the section of City Code in regards to parking. Philpot Street has been metered for several years but is not listed in City Code. The WPA would like to install meters on Boscawen Street between Indian Alley and Loudoun Street which is currently 30 minute parking.

Councilor Willingham moved to forward the ordinance to Council. *The motion was seconded by Councilor Clark then approved 5/3 with President Buettner, Vice-President Major and Councilor Veach voting in the negative.*

**R-2010-42:** Resolution – Authorize the use of Department of Fire Program Funds to purchase and install radios

Interim Fire Chief Gary Ganoe stated the resolution if to authorize the purchase of radios with the Department of Fire Program funds.

Mr. O'Connor stated the radios would conform to what is done in the future and is only for the Fire Department.

Vice-President Major moved to forward the resolution to Council. *The motion was seconded by Councilor Clark then unanimously approved by voice-vote.*

**Discussion** – Liaison Appointments to Boards & Commissions

President Buettner asked that the discussion be moved to a future meeting.

**Adjournment**

With no further business to discuss, the meeting adjourned at 8:40 p.m.